



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America,

Plaintiff,

v.

Lonnie Ray Swartz,

Defendant.

No. CR-15-01723-TUC-RCC(DTF)

**JURY QUESTIONS
DURING TRIAL**

Jury questions during trial.

Day 13

by Mr. [unclear]
In a prior 3D video ~~at~~
shows agent Swarts at
the fence and the rock
throwers. In this depiction it
shows a rock thrower tossing
a rock between the 1st and 2nd
shot. Is this a true depiction

YPS

~~THE CONCENTRIC CIRCLES OUTLINING
DISTANCES ARE STRAIGHT LINE. WAS
THERE ANY CONSIDERATIONS TAKEN FOR
ROCKS THROWN 14 FEET BELOW A
20 FOOT BORDER FENCE?~~

HEAD SHOTS

COULD TRAJECTORY 1 AND 2 HAVE
BEEN FIRED FROM THE SAME FIRING POSITION?
FROM 2 BEFORE 1? yes

CAN YOU DETERMINE IF ROCKS WERE
THROWN FROM SEVERAL LOCATIONS?
yes

^{photo}
Exhibit 1499 appears to show
additional rocks along the
wall, or do you see them
as something else? yes

^{or would}
Did your Rock Throwing Range
be effected by the throwing side
elevation being lower than
where the rocks were landing? yes

~~What is a reasonable amount of time for the~~

~~gov to bring charges regarding the~~

~~use of deadly force by a BP agent?~~

What is a ^{normal} reasonable ^{amount of} time for the
gov to bring charges regarding the
use of deadly force by a BP agent?

1/2

~~Bob left right the Chas was
you didn't see perhaps
Rocky left the Chas was~~

In this incident if the Rocks were landing on North side of vehicles, would it have been safe in your opinion to take cover behind them? NO

WERE THE 1713 ROCKINGS ONLY REPORTED
BECAUSE INJURY OR LESS THAN LETHAL
AND LETHAL FORCE WAS EMPLOYED?

WJ

COULD NOGALES MUNICIPAL POLICE CONSIDER
THE AREA OF THE SHOOTING AS LOW
CRIME BECAUSE THE CRIMES ARE NOT
COMMITTED AGAINST MEXICAN CITIZENS?
Yes

WHEN AN INSTRUCTOR USES A POWERPOINT
SLIDE, IS NOT THE INTENT TO STRESS
A MAIN POINT AND DISCUSS INFORMATION
~~WITH~~ CONCERNING THE MAIN POINT WITH
SCENARIOS AND ADDITIONAL GUIDANCE? W

HOW MANY OTHER AGENTS WERE PRESENT
WHEN YOU WERE ROCKED AND HAD TAKEN
COVER? DID YOU EVER DRAW YOUR
WEAPON IN A ROCKING SITUATION? Yes

DID YOU EVER TAKE A THREAT POSTURE
TO PROTECT OTHERS? Yes

IN YOUR EXPERIENCE
OF ROCKING, WERE YOU
EVER FEARFUL THAT THE
ROCKS COULD COME OVER
THE VEHICLE AND HIT YOU?
EVEN THOUGH YOU ~~THOUGHT~~ ^{THOUGHT} INITIALLY
~~THOUGHT~~ ^{HAD} YOU ~~WAS~~ TAKEN COVER? YES

YOU WERE GIVEN CERTAIN INFORMATION
CONCERNING THIS CASE, BESIDES DR MILLER'S
AND AGENT SWARTZ'S TESTIMONY, WHAT
OTHER INFORMATION WAS PROVIDED FOR
REVIEW/ASSESSMENT FROM THE DEFENSE?

W

SINCE DR MILLER INTERVIEWED AGENT
SWARTZ OVER 3 YEARS AFTER THE
EVENT, WOULD THIS IMPACT THE
VALIDITY OF HIS REPORT AND YOUR
ASSESSMENT OF HIS REPORT?

ML

DOES INFORMATION NOT INCLUDED IN
DR MILLER'S REPORT MEAN THAT THERE
WERE SEVERAL AREAS THAT YOU HAD ISSUES
WITH WERE NOT ADDRESSED? IS A REPORT
ALL INCLUSIVE OF EVERYTHING IN THE INTERVIEW?

ask for
why did you not ^{could} interview
Agent Swartz? then you give or
make your own report as
well as ask questions to things
you had in DR Miller's report
for the Prosecutions Side m

What does his reaction
after the shooting mean to
you? as in him crying and
throwing up. m

THAT YOU ARE AWARE OF

IS THERE EVIDENCE OF
OFFICERS SAYING SOMETHING
AFTER A SHOOTING
WITHOUT ANY RECOLLECTION?

yes

COULD MISINTERPRETATION OF SHADOWS FROM LIGHTING
ON BOTH SIDES OF THE BORDER CAUSED BY LIGHTING
OR ANOTHER ROCK THROWER NOT CAPTURED ON
VIDEO ALONG WITH THE MOVEMENT OF
AGENT SWARTZ HAVE CAUSED HIS PERCEPTION
OF THE THREAT?

an

NOTE THAT NO VIDEO EVIDENCE ADDRESSES THE
THREAT FROM AGENT SWARTZ'S FIRING POSITIONS.

ARE MOST OF THE INTERVIEWS CONCERNING OFFICER
INVOLVED SHOOTING'S CONDUCTED CLOSE IN
TIME IN RELATION OF THE SHOOTING'S?

yes

COULD A MISINTERPRETION OF SHADOWS FROM
LIGHTS FROM US SIDE OF BORDER AND MOVEMENT
OF AGENT SWARTZ TO ADDITION Firing POSITIONS
CAUSED HIS PERCEPTION OF THE THREAT?
NOTE THE VIDEO EVIDENCE HAS NOT
TAKEN BY A BODY CAMERA FROM
AGENT SWARTZ'S POSITIONS?

HAVE YOU EVER ASSESSED AN INCIDENT
THAT ^{INVOLVED} ~~WAS~~ A BORDER PATROL AGENT?

yes

~~One of the other shooting~~

~~How old was your~~
~~grandson~~

Does your grandson
have children, if so
how many

Who was Jose living with?
ye